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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,343	08/20/2003	Terrence P. Costigan	GP-303160	5870

7590 08/26/2004

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,343

Applicant(s)

COSTIGAN, TERRENCE P.

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/20/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/20/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,791,703 to Kritzler.

Kritzler '703 teaches Applicant's claim limitations including : a "pull handle" - 2, defining a pivot socket" - as shown at '9' in Fig 4, a "pivot bracket" - including 8 as shown in Fig 5 .

As regards claim 3, Kritzler '703 illustrates a "first chamber" - 9 and a "second chamber" - at W.

As regards functional recitations (of claims 1-6) describing how the claimed invention (a pull handle and pivot bracket) can function or be arranged with unclaimed structure (a vehicle door), it's noted that no particular structure of the claimed invention is defined thereby. Whether or not the present invention, or the prior art is actually arranged or can be used in the intended manner depends at least as much on the structure of a vehicle door as it might on disclosed, but unclaimed structure of the present invention. Since a vehicle door is not included as part of the invention, there is no requirement that an

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anticipatory reference teach one. In the present case, it is the examiner's position that the prior art teaches all structural limitations defining the invention and can inherently be used and arranged as recited with a vehicle door that is suitably configured. See MPEP 2114.

3. Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,363,577 to Spitzley.

Spitzley '577 teaches Applicant's claim limitations including : a "pull handle" - 30, defining a "pivot socket" - concavity at left end of 30 (as shown in Fig 2) that receives protrusion structure at 34c, a "pivot bracket" - 34.

As regards claim 3, the pivot socket of handle 30 is split into first and second sections by 30g as shown in Fig 3.

As regards claim 6, Spitzley '577 teaches a "bell crank" - 32.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,791,703 to Kritzler in view of U.S. Pat. No. 5,725,262 to Kritzler.

As regards claim 2, although the outside handle assembly of Kritzler '703 is intended to be attached to a vehicle door, the reference does not disclose fastening structure corresponding to limitation of "pivot bracket includes a snap attachment feature insertable into a hole in the outer panel to retain the pivot bracket to the outer panel. The claim does not include the door as part of the invention nor specify any specific structure of the "snap attachment feature". The limitation should not be given weight in accordance with 35 USC 112, 6th paragraph nor is it properly interpreted as a 'step'. Kritzler '262 teaches hook structure (19) that is insertable into the hole to retain the assembly. That structure reads on broad limitation since no particular structure is defined in the claim that can be relied upon to patentably distinguish from structure long known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the assembly of Kritzler '703 with attachment structure as taught by Kritzler '262 to allow quick attachment to a vehicle door. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function of the assembly.

As regards claim 6, although the outside handle assembly of Kritzler '703 is intended to operate a latch of a vehicle door, the latch and other intermediate operational elements are not shown. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the assembly of Kritzler '703 with a latch and operating structure including "bell crank" (26) and "latch rod" (5) as taught by Kritzler '262 for implementing intended use disclosed

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therein. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function of the assembly.

Allowable Subject Matter

6. Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,685,581 to Kritzler.

U.S. Pat. No. 6,447,030 to Meinke.

U.S. Pat. No. 6,594,861 to Dimig.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estromsky
Primary Examiner
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